

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
EDMONDS-STEVENSON, INC.,)
Appellant,)
vs.)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
Respondent.)

PCHB No. 379

FINDINGS OF FACT,
CONCLUSIONS AND ORDER

A formal hearing on the appeal of Edmonds-Stevens, Inc. to a Notice of Civil Penalty of \$50.00 for an alleged smoke emission violation came on before Board members W. A. Gissberg and Mary Ellen McCaffree, W. A. Gissberg presiding, on October 12, 1973, in Seattle, Washington.

Appellant appeared by and through its secretary, Richard Johnson; respondent appeared by and through its attorney, Keith D. McGoffin.

Having heard the testimony and reviewed the exhibits and being fully advised the Board makes the following

FINDINGS OF FACT

I.

On May 4, 1973, appellant caused or allowed exhaust, or smoke, to be emitted from a Diesel powered pile driver which appellant was operating near Evergreen Park, Kitsap County, Washington, for five consecutive minutes of a shade darker than Number 2 on the Ringelmann Chart, namely a Ringelmann number three and one-half.

II.

The pile driving equipment was not owned by appellant but rather had been leased by it.

III.

Section 9.03(a) of respondent's Regulation I makes it unlawful to cause or allow the emission of an air contaminant darker in shade than Number 2 on the Ringelmann Chart for more than three minutes in any hour.

IV.

Appellant contends that it should not be subjected to respondent's Notice of Civil Penalty No. 839 because it was not the owner but the renter of the equipment which caused the emission.

From which comes these

CONCLUSIONS OF LAW

I.

Appellant was in violation of Section 9.03(a) of respondent's Regulation I.

II.

The civil penalty, being one-fifth of the maximum allowed is

FINDINGS OF FACT,
CONCLUSIONS AND ORDER

1 reasonable.

2 III.

3 It is not a defense to appellant that it was operating leased
4 equipment any more than the operator of a vehicle which was violating
5 the speeding laws of this state could contend that he was not guilty
6 of a violation of law because the vehicle which he was operating was
7 rented.

8 From which follows the Board's

9 ORDER

10 The appeal is denied and the civil penalty is affirmed.

11 DATED this 23 day of October, 1973.

2 POLLUTION CONTROL HEARINGS BOARD

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14 W. A. GISSBERG, Member

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17 MARY ELLEN McCAFFREE, Member

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26 FINDINGS OF FACT,
27 CONCLUSIONS AND ORDER